



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5464-99

28 February 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed an application with this Board requesting reinstatement in the Naval Reserve.
2. The Board, consisting of Mr. Kastner, Mr. Mazza and Ms. LaBlanc, reviewed Petitioner's allegations of error and injustice on 23 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Petitioner's application was filed in a timely manner.
 - c. Petitioner served on active duty in the Navy from 13 July 1959 to 12 July 1962. She reenlisted in the Naval Reserve on 11 October 1966 for six years. She drilled briefly but did not earn any qualifying years for retirement. She was honorably discharged on 10 October 1972.
 - d. Petitioner reenlisted in the Naval Reserve on 21 June 1986 after a break in service of almost 14 years. Subsequently, she reenlisted in the Naval Reserve on several occasions. The record shows that she earned consecutive qualifying years for reserve retirement which included service on active duty from 8 January 1990 to 23 October 1992. The record shows that Petitioner reported to the Naval Reserve Unit supporting the

U. S. Commander in Chief, Europe on 1 December 1992. On 14 June 1996 she reenlisted in the Naval Reserve for two years. She was honorably discharged at the expiration of her enlistment on 13 June 1998. On 20 June 1997 at the end of her last full anniversary year, she was credited with 14 years of qualifying service for reserve retirement.

e. Petitioner states that her husband received orders and they relocated back to the United States in May 1997, and that after several months taking care of a family emergency and getting resettled she tried to reaffiliate with a reserve unit in January 1998. Apparently, there were difficulties receiving her record from Europe and her enlistment expired on 13 June 1998 before her record could be obtained. She states that the record was subsequently discovered and mailed to her. She has apparently been denied reenlistment because she is now 58 years old and cannot qualify for retirement prior to age 63.

f. Contained at enclosure (1) is an advisory opinion from the Navy Personnel Command (Pers 913) which recommends that Petitioner's request be denied and states, in part, as follows:

(She) is 58 years old and has 14 qualifying years of service toward a non-regular retirement. Per title 10 USC, she must be able to complete 20 years of qualifying service before her 63rd birthday. Regretfully (she) cannot meet this requirement.

..We commend (her) for her years of faithful service to our country. However, we find no evidence that her unfortunate situation is the result of negligence or malice on the part of the Naval Reserve.

g. The Board is aware that had the command transferred her to the Individual Ready Reserve (IRR) in May 1997, the Naval Reserve Personnel Center would have given her an opportunity to reenlist or extend her enlistment prior to discharge. In the alternative, the reserve unit in Europe could have extended her enlistment prior to her return to the United States to preclude expiration of her enlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Given the circumstances, the Board concludes that Petitioner should have been given an opportunity to extend her

enlistment prior to discharge. Therefore, the Board concludes that the record should be corrected to show that she extended her two year enlistment of 15 June 1996 for a period of 48 months. With this correction her expiration of enlistment will be 14 June 2002.

Given Petitioner's outstanding drilling record, the Board believes that, if she had status in the Naval Reserve, she would have continued to earn qualifying years. Therefore, the Board concludes that 35 retirement points should be transferred from the excess over 50 in prior anniversary years to each of the anniversary years ending 20 June 1998, 1999 and 2000. The 35 points when added to the 15 membership points will make each of these years qualifying for retirement. The points in the 2000 anniversary year are needed because her record will probably not be corrected until after 20 June 2000. On that date, Petitioner will be 59 years old, will have 17 qualifying years and will be in a position to qualify for retirement.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand her status in the Naval Reserve.

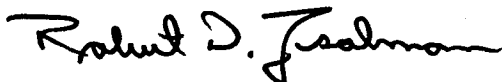
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she extended her two year enlistment of 15 June 1996 for a period of four years.

b. That Petitioner's naval record be further corrected by transferring 35 retirement points from the excess over 50 in prior anniversary years to each of the anniversary years ending 20 June 1998, 1999 and 2000.

c. That this Report of Proceedings be filed in Petitioner's naval record.

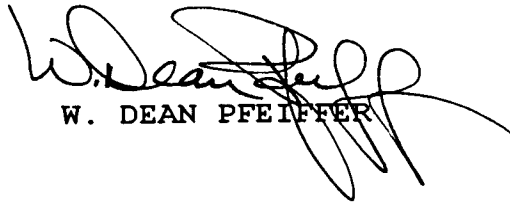
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



ROBERT D. ZSALMAN
Recorder

ALAN E. GOLDSMITH
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.


W. DEAN PFEIFFER

Reviewed and approved:

 MAY 25 2000

CHARLES L. TOMPKINS
Deputy Assistant Secretary of the Navy
(Personnel Programs)